

Division of Human Rights

Investigation of Housing Discrimination Complaints

Report 2023-S-26 | October 2024

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether the Division of Human Rights reviewed and addressed housing discrimination complaints timely and in accordance with its policies and procedures and the related laws. Our audit covered the period from April 2019 through February 2024.

About the Program

The Division of Human Rights (DHR) enforces the New York State Human Rights Law (Law) to help ensure that every individual has an equal opportunity to participate fully in the economic, cultural, and intellectual life of the State. Among other things, the Law prohibits discrimination in housing based on age, race, lawful source of income, national origin, gender identity, sex, sexual orientation, marital status, disability, military status, and other protected classes. Under the Law, housing discrimination occurs when sellers, owners, landlords, real estate brokers, and/or agents refuse to sell or negotiate for the sale, lease, or rent of housing accommodations based on protected classes.

DHR investigates, prosecutes, and adjudicates housing discrimination cases. DHR is also a participant in the U.S. Department of Housing and Urban Development (HUD) Fair Housing Assistance Program, for which DHR provides a variety of fair housing administrative and enforcement activities, including complaint investigation, training, education, and outreach. HUD refers housing discrimination complaints to DHR for investigation. Additionally, if the basis for a housing discrimination complaint filed with DHR is a class covered under both State and federal laws, DHR “dual files” the case with HUD. DHR receives reimbursement from HUD for processing, investigating, and resolving cases that are referred by HUD and for cases that are dual filed.

When DHR receives a housing discrimination complaint, it must notify the respondent that the complaint has been made against them and begin its investigation within 30 days of receipt of the complaint. DHR investigators should complete the investigation within 100 days of receipt of the complaint. Outcomes of investigations include determinations of probable cause or no probable cause, conciliations, or case dismissals.

Once a complaint has been received, DHR staff record the complaint in a variety of logs, such as an Excel spreadsheet and a handwritten log. These logs are updated and maintained by different individuals. When DHR receives a complaint that is unclear or incomplete, DHR refers to it as a defective complaint and, rather than processing it, returns it to the complainant with instructions for correcting the defect(s).

All the information regarding the complaint and investigation described above must be recorded and tracked in DHR’s Law Manager Case Management System (CMS) for housing discrimination complaints. According to data obtained from CMS, as of November 7, 2023, there were 2,263 housing discrimination cases filed with DHR from various counties within the State between April 1, 2019 and October 31, 2023. As of February 2024, DHR had a backlog of more than 350 open complaints that had not yet been assigned to an investigator.

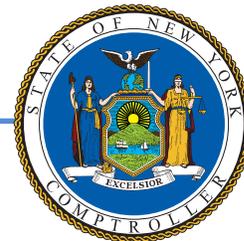
Key Findings

- DHR does not have adequate controls over the intake of housing discrimination complaints, resulting in lost and unprocessed complaints as well as some complaints inappropriately being deemed defective.
 - At the time of our request, DHR officials could not account for 82 of 120 (68%) sampled complaints. Subsequently, officials located 40 complaints but still could not account for 42 complaints.
 - 11 of 25 (44%) sampled complaints were inappropriately deemed defective.
- DHR officials have not developed procedures to ensure complaints were processed and investigated in a timely manner. For a sample of 175 complaints filed and closed with DHR between April 2019 and October 2023:
 - DHR did not notify respondents and/or initiate an investigation within 30 days of the filing for 82 complaints (47%). In one case, it took 655 days to serve a respondent—more than 1 year and 8 months beyond the 30-day requirement.
 - DHR did not complete its investigation and notify the respondent of the outcome within the required 100-day period for 120 complaints (69%). In one case, it took over 3 years (1,099 days) to complete the investigation for determining probable cause.
- DHR investigators were not properly trained and supervised, resulting in no assurance that investigators followed investigation requirements before closing complaints. For 61 of 87 cases (70%) where an investigator reached a cause determination, CMS records did not include evidence that DHR completed all required investigation steps before the determination was issued.
- HUD cases were improperly prioritized over non-federal cases.

Key Recommendations

- Establish adequate internal controls over the handling, processing, and investigation of all complaints—including those deemed defective—and ensure that all complaints are handled on time and appropriately, including:
 - Developing and implementing comprehensive written procedures that include a streamlined process for handling and tracking all incoming housing discrimination complaints in a timely and consistent manner.
 - Monitoring and segregating the duties of the staff responsible for logging, tracking, and completing the initial review of complaints.
 - Conducting ongoing reconciliations of DHR's various intake logs with CMS records.
 - Providing adequate training for all staff involved in the complaint intake, processing, and investigation process.
 - Actively monitoring DHR's intake and investigation procedures to ensure that complaints—including those marked as defective and as non-federal cases—are handled on time and appropriately.

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- Improve oversight of the investigation process to identify reasons for delays in case processing times and ensure case determinations are consistent and accurate.
 - Investigate complaints in the order in which they were filed, regardless of federal status, to ensure all investigations are initiated within 30 days.



**Office of the New York State Comptroller
Division of State Government Accountability**

October 15, 2024

Denise Miranda
Acting Commissioner
Division of Human Rights
One Fordham Plaza, 4th Floor
Bronx, NY 10458

Dear Acting Commissioner Miranda:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Investigation of Housing Discrimination Complaints*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
DHR	Division of Human Rights	<i>Auditee</i>
Alchemer	System used for receiving and storing online complaints submitted to DHR through its website	<i>System</i>
CMS	Law Manager Case Management System used for logging and tracking complaints, correspondence, and determinations on complaints	<i>System</i>
Defective complaints	Complaints DHR official determines are incomplete, unclear, and/or missing information necessary to investigate the complaint	<i>Key Term</i>
Director	Division of Human Rights Director of Federal Contracts	<i>Key Term</i>
HUD	U.S. Department of Housing and Urban Development	<i>Federal Agency</i>
Law	New York State Human Rights Law	<i>Law</i>

Background

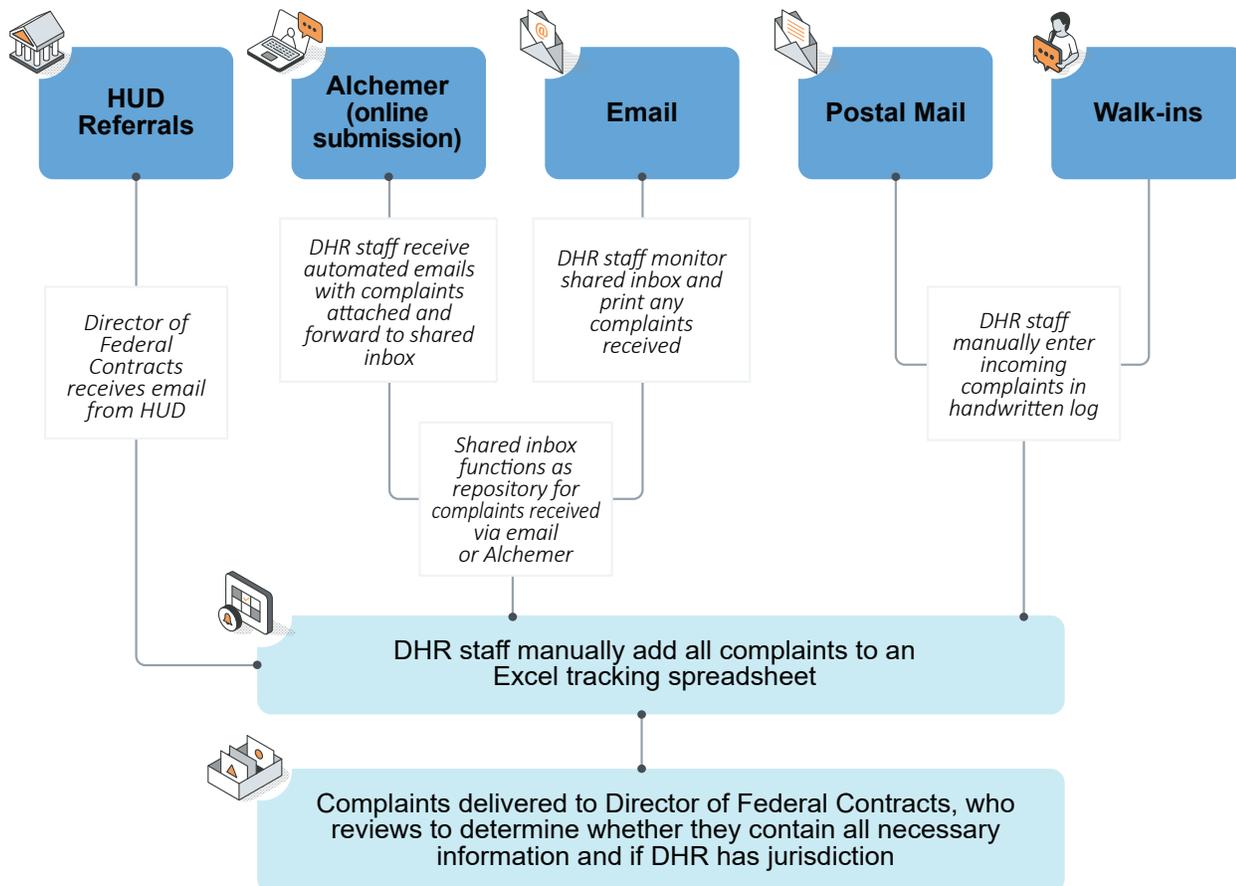
The Division of Human Rights (DHR) enforces the New York State Human Rights Law (Law) to help ensure that every individual has an equal opportunity to participate fully in the economic, cultural, and intellectual life of the State. Among other things, the Law prohibits discrimination in housing based on age, race, lawful source of income, national origin, gender identity, sex, sexual orientation, marital status, disability, military status, and other protected classes. Under the Law, housing discrimination occurs when sellers, owners, landlords, real estate brokers, and/or agents refuse to sell or negotiate for the sale, lease, or rent of housing accommodations based on protected classes.

DHR has jurisdiction over housing discrimination complaints in which the aggrieved party is a member of a protected class, the respondent or dwelling is covered under the Law, the alleged act of discrimination is covered under the Law, and the complaint is filed in a timely manner. At the time of this audit, the Law required that a complaint be filed with DHR within 1 year of the alleged unlawful discriminatory practice. However, as of February 15, 2024, the statute of limitations has been extended from 1 to 3 years.

DHR is a participant in the U.S. Department of Housing and Urban Development (HUD) Fair Housing Assistance Program, for which DHR provides a variety of fair housing administrative and enforcement activities, including complaint investigation, training, education, and outreach. HUD—and non-profit organizations that participate in HUD's Fair Housing Initiatives Program—refer New York housing discrimination complaints to DHR via email. Additionally, if DHR receives a complaint and the basis for housing discrimination is a class covered under both State and federal laws, DHR “dual files” the case with HUD. DHR receives reimbursement from HUD for processing, investigating, and resolving these cases. Classes protected under both State and federal laws include color, creed, disability, familial status, national origin, race, sex, and sexual orientation. Additional classes protected under State law include age, arrest record, citizenship or immigration status, domestic violence victim status, gender identity or expression, lawful source of income, marital status, and military status.

In addition to HUD referrals, submitted via email, DHR receives housing discrimination complaints from the public and various non-profit organizations by email, postal mail, walk-ins, and an online complaint form processed through a system called Alchemer. Once a complaint has been received, DHR staff record the complaint in a variety of logs (see Figure 1). In order to process a complaint, DHR requires that the complainant answer all questions on DHR's complaint form. When DHR receives a complaint that is unclear or incomplete, it is referred to as a defective complaint. Prior to December 2023, DHR returned all defective complaints to complainants with instructions for correcting the defect(s). As of December 2023, DHR only returns complaints when they lack essential information to continue processing the case.

Figure 1 – DHR’s Process for Initial Tracking of Incoming Housing Discrimination Complaints



DHR should begin an investigation into each complaint and notify the respondent that the complaint was made against them within 30 days of the complaint being filed, and DHR should complete the investigation within 100 days of the complaint being filed. DHR’s housing discrimination investigations can have one of the following outcomes:

- Case determination – DHR officials may determine a complaint has “Probable Cause” or “No Probable Cause” (which can be appealed within 60 days). Determinations of probable cause should be found if it is reasonable to believe that a prohibited discriminatory act has occurred. If it is not reasonable to believe that a prohibited discriminatory act has occurred, the case should be determined to have no probable cause.
- Conciliation agreement – The complainant(s), respondent(s), and DHR reach a settlement agreement.
- Case dismissal – DHR officials may dismiss a case as “Lack of Jurisdiction” because the respondent, dwelling, or protected class is not covered under the Law or the case is not filed timely. DHR officials may dismiss a case as “Administrative Convenience” because they cannot locate the complainant,

the complaint does not include a viable respondent, or the complainant is unavailable or unwilling to participate or has parallel proceedings in another court. DHR officials may also dismiss cases as “Withdrawals” when complainants complete and sign a withdrawal form.

DHR uses its Law Manager Case Management System (CMS) to record and track information on complaints, such as case participants, case activities and associated dates, and case statuses. According to data obtained from CMS, as of November 7, 2023, there were 2,263 housing discrimination cases filed with DHR from various counties within the State between April 1, 2019 and October 31, 2023 (see Exhibit). As of February 2024, DHR had a backlog of more than 350 open complaints that had not yet been assigned to an investigator.

Audit Findings and Recommendations

DHR officials did not ensure that staff reviewed and addressed housing discrimination complaints in a timely manner and often deviated from the Law and policies they should be following. When someone files a housing discrimination complaint, it is essential that their case is acted upon as quickly and efficiently as possible. In many cases, people may find themselves without housing options or stuck in an unhealthy environment while they wait for investigation and resolution of their complaint.

DHR has weak internal controls over its process for receiving and tracking housing discrimination complaints, resulting in complaints getting lost. Inadequate monitoring and multiple inefficiencies in the complaint intake process meant that not all complaints were properly recorded in DHR's system upon receipt and moved on to the next step in the investigation process in accordance with applicable laws and policies. DHR officials need to enhance controls and establish a streamlined process to ensure all complaints received are appropriately logged, tracked, processed, and investigated.

Additionally, we found multiple weaknesses in DHR's process for initial review of complaints, during which one DHR official determines whether DHR has jurisdiction and if the complaint contains enough information to be investigated. Because DHR officials did not implement written policies and procedures and have only one individual conducting the initial review with no oversight or monitoring, they inappropriately deemed a number of complaints to be defective and therefore did not investigate those complaints. DHR officials must also develop and implement comprehensive written procedures and improve monitoring to ensure the proper handling of defective complaints.

Further, DHR took a significant amount of time to begin and complete the investigation process. The lengthy case-processing times negatively impacted the quality and efficiency of DHR's investigations, as it lost touch with certain complainants and some complainants were no longer interested in cooperating with the investigation. In addition, due to the lack of available documentation, there is limited assurance that DHR always followed all required investigative steps, and DHR was inconsistent in its case determinations—particularly between federal HUD cases and cases with no federal status. DHR also prioritized HUD cases over cases with no federal status. DHR must establish adequate internal controls over the handling, processing, and investigating of all complaints to ensure that all complaints are handled on time and appropriately.

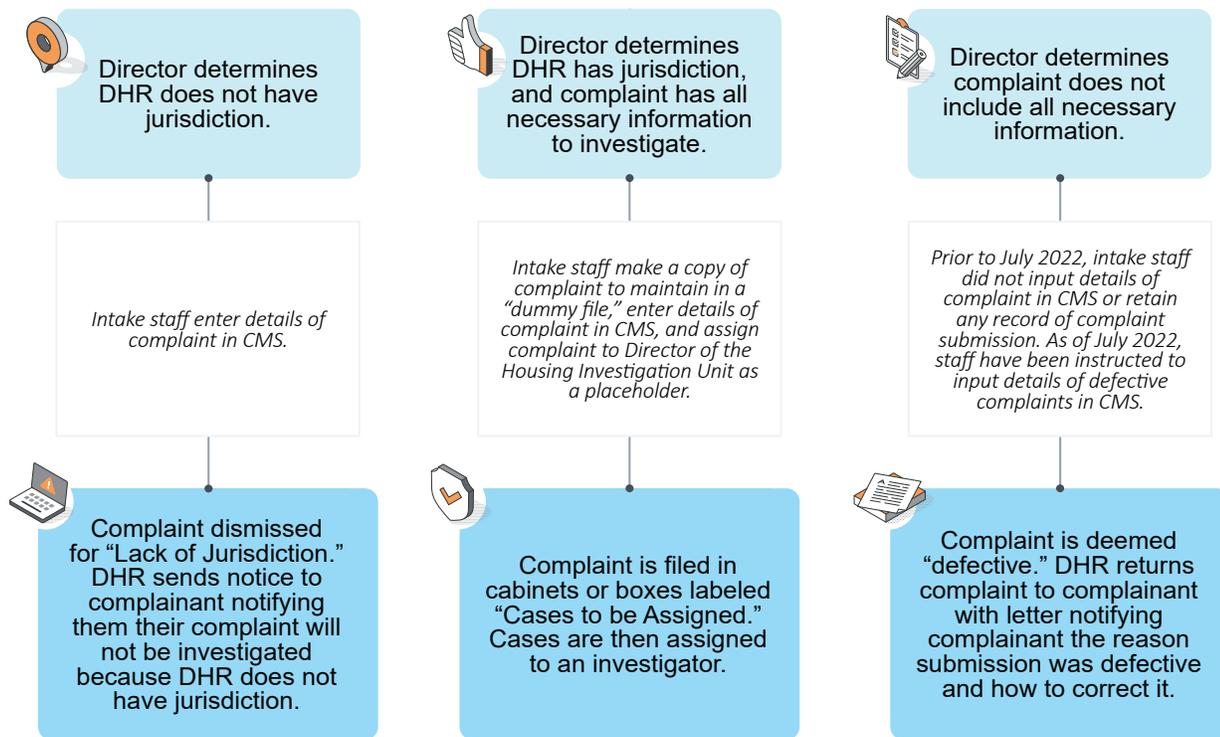
Weak Controls Over Intake of Complaints

Due to weak internal controls, including inadequate monitoring and a lack of written policies and procedures, DHR has poor oversight over its housing discrimination complaint intake process, resulting in a lack of assurance that all complaints are entered into CMS, processed, and investigated in accordance with applicable laws and policies. In addition, DHR's intake process is inefficient and duplicative, leading to complaints getting lost or not being documented and processed.

Inefficient Tracking and Monitoring of Incoming Complaints

According to DHR officials, DHR’s Director of Federal Contracts (Director) is responsible for overseeing the intake of all submitted housing complaints, while DHR’s clerical staff are responsible for completing the intake process, which includes reviewing the complaints, contacting applicable parties, and recording key details of complaints in CMS. The Director completes the initial review of each complaint to determine whether the complaint contains all necessary information and if DHR has jurisdiction (see Figure 2).

Figure 2 – DHR’s Process for Initial Review of Housing Complaints and Intake Into CMS



Weaknesses in DHR’s intake oversight led to an unreliable and deficient inventory of housing discrimination complaints. Although DHR staff utilized multiple logs to track submitted complaints, officials did not establish adequate controls over the intake process, including written procedures over the process, segregation of duties, and oversight of key staff members responsible for updating the logs and reviewing the accuracy of the logs. Of a sample of 70 complaints submitted online, 33 were not recorded in CMS and DHR officials could not locate five of these 33 complaints. According to DHR officials, when a complainant submits an online complaint, Alchemer generates an automatic email with the attached complaint, which it sends to a specific DHR staff member. This staff member should forward the email and its attachment to DHR’s designated housing complaints email inbox; however, DHR officials did not develop adequate controls to ensure that the staff member

was fulfilling this function accurately and completely. There were no mechanisms in place to confirm that the staff member appropriately forwarded all Alchemer complaints received and that the staff's responsibilities were adequately segregated. For instance, DHR officials did not reconcile the emails that this staff member forwarded to the housing complaints inbox for processing with other applicable records. Furthermore, this staff member was the only employee with direct access to Alchemer (including editing and deletion rights), and although this individual advised us that complaints were never altered or deleted, DHR officials did not provide us with records to reasonably verify this claim.

Similarly, although DHR officials assigned a different staff member to log, in a spreadsheet, complaints that DHR received from other sources, no one reconciled this spreadsheet and its sources with the actual complaints that DHR processed for intake and entered into CMS. In addition, the Director took some of the submitted complaints home in order to complete the initial review, and DHR officials did not track the complaints the Director took off-site and reconcile them with the actual complaints entered into CMS. As a result, DHR officials did not have a complete and accurate inventory of all complaints filed, which resulted in DHR failing to investigate housing discrimination complaints in accordance with applicable laws and policies.

As a result of our preliminary audit findings, DHR officials learned that at least one staff member had inadvertently deleted complaints from the designated housing complaints inbox due to a lack of written procedures, supervision, and proper training over the process of tracking complaints. We note that, due to poor oversight and monitoring, DHR officials were unaware of this until we brought it to their attention. In response to our preliminary findings, officials stated that they will review their policies and procedures and improve internal controls over their complaint intake procedures, including implementing robust complaint log reconciliation procedures and ensuring that all complaints the agency receives are properly logged and regularly checked against CMS to ensure proper and timely recordkeeping.

Complaints Lost and/or Not Processed

DHR officials were unable to locate certain complaints and did not process all complaints as required by the Law. We searched CMS records for a sample of 306 complaints, selected from DHR's various logs (see table, p. 13). As of January 12, 2024, DHR officials could not locate 120 of these complaints in CMS. DHR officials advised that it is possible these complaints were not recorded in CMS because they were defective and, prior to July 2022, staff were not required to record defective complaints in CMS. However, 50 of the 120 complaints that were not in CMS were received after July 2022.

DHR officials also explained that they maintained physical records of defective complaints, including a copy of defective complaint letters sent to complainants, in a filing cabinet labeled "Twilight Zone" (see Figure 3, p. 13).

Complaints Not Found in CMS and/or DHR's Files

Method Received	Sample Size	Complaints Not Recorded in CMS	Complaints Not Found in CMS or "Twilight Zone" Cabinet
Alchemer	70	33	5
Email (includes some from Alchemer)	48	11	11
Postal mail	188	76	66
Totals	306	120	82

We requested the records for the 120 complaints that were not recorded in CMS. It took more than 2 weeks after our request for DHR officials to provide us with physical records for 28 of the 33 (85%) Alchemer-submitted complaints, which they told us were found in the "Twilight Zone." The records included 25 complaints with defective complaint letters attached and three complaints with no attachments. For the remaining five Alchemer complaints, DHR officials said they were unable to locate the complaints at the time of our request. We note that, between the time of our request for the physical records and the time we were provided with the records, the staff member who managed online submissions provided a copy of the 28 complaints from Alchemer to the individual who subsequently provided us with these files. Nonetheless, DHR did not provide proof that they mailed out defective complaint letters for any of the 25 complaints, and eight of the complainants did not recall receiving a defective complaint letter from DHR. Therefore, we have no assurance that these letters were ever sent to the complainants.



Figure 3 – "Twilight Zone"-labeled cabinet

We accompanied DHR officials for a search of the "Twilight Zone" for the other 87 complaints (received through email [11] or postal mail [76]) that were not recorded in CMS. During that search, DHR officials only found records for 10 of these 87 complaints. Ultimately, at the time our preliminary finding was issued, DHR officials provided us with records for 38 of the 120 missing complaints but did not account for the 82 (68%) remaining complaints.

It is concerning that DHR officials could not account for 68% of the sampled complaints that we requested. In response to our concerns on how DHR ensures that submitted complaints are not lost, officials said that if a complainant contacts DHR about the status of their filed complaint, various records will be reviewed and the complainant will be provided with an update. Waiting for a complainant to make contact to determine if a complaint was lost is not an appropriate internal control. Further, if auditors had not brought the missing complaints to the attention of DHR officials, there is no assurance that DHR would have processed and investigated the complaints as required by the Law.

When DHR officials responded to our preliminary findings, they claimed to have accounted for the 82 missing records. According to officials:

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- 25 were found to have been documented in CMS or in the unit's defective complaint files (i.e., the "Twilight Zone"), and might have been missed during our initial review because of inefficiencies, illegible handwriting, disorganization of the unit's defective files, or misspelled names.
 - 15 were located on the back end of Alchemer and/or in the shared email inbox and subsequently were being appropriately logged in CMS and processed.
 - 17 were recorded as being defective and returned to complainants according to spreadsheets maintained by intake staff.
 - 25 were believed to be defective complaints returned to complainants with no records maintained by DHR.

Although DHR officials stated that they found 17 complaints were recorded on a spreadsheet as being defective and returned to the complainants, they provided no assurance of the spreadsheet's completeness or accuracy. In fact, we found that this spreadsheet was not consistently utilized to track defective complaints. Likewise, although officials stated that they believe 25 of the missing complaints were defective and returned to complainants, there was no evidence to support their assertion, as they maintained no copies or records. Therefore, DHR has no assurance that these 42 (25 + 17) complaints were actually defective and returned to the complainants.

The inefficiencies in DHR's handling and tracking of incoming housing complaints results in a high risk of missing or lost complaints. In fact, DHR's failure to investigate housing discrimination complaints could result in complainants losing trust in DHR and its processes. Additionally, because officials utilize information in CMS to generate annual reports on housing discrimination within the State, inconsistencies and/or inaccuracies in CMS records could result in reporting inaccurate information to the public and the Legislature. In response, DHR officials stated that, in the future, they will record all incoming mail digitally—rather than in handwritten logs—and will record all submissions in CMS within a day of receipt.

Complaints Inappropriately Deemed Defective

When DHR officials determine a complaint is defective, they should send a notice to the complainant providing them with an explanation and the opportunity to correct the complaint. According to DHR officials, if the individual responds to the defective notice by correcting the original complaint, that submission should then be processed and fully investigated. However, if the complainant does not correct the submission, the complaint will not be investigated by DHR. Prior to December 2023, DHR officials did not develop written policies or procedures for determining under what circumstances complaints should be deemed defective; however, they explained that a single official reviews each complaint to determine whether the complaint is defective. DHR officials did not monitor this process and, as a result, complaints were improperly deemed defective.

As previously noted, the records from the "Twilight Zone" provided in response to our request for missing complaints included defective complaint letters for 25 complaints. Each of these 25 letters was dated 6 to 9 days after the complaint had

been submitted. However, when we reviewed an additional sample of 53 defective complaints, we found that it was unusual for DHR to send defective notices so quickly, as their average time frame is 4.3 months (132 days).

We reviewed the 25 defective complaint letters alongside the details of each complaint and found that 11 did not meet the criteria to be listed as defective. We met with key officials, including those responsible for overseeing the individual who determines defectiveness, and discussed five of the defective cases. For three of the five cases, DHR officials agreed with our assessment that the cases should not have been deemed defective because the complaints contained enough information to move forward with the investigation. For the remaining two cases, officials stated that it was less clear whether they were defective but that the two cases should have been looked into further. For cases where complainants provide DHR with enough details of alleged discrimination, it is incumbent on DHR to investigate the case. Therefore, according to DHR officials, staff should have investigated all five cases we discussed.

DHR officials also returned one case as defective because the complainant marked multiple bases of discrimination, including familial status, lawful source of income, marital status, and sex, but did not describe each basis. According to CMS, when the complainant called a landlord to discuss renting a property, she explained that she is a single mother. The landlord asked her how many occupants would be moving in and when she stated it would be her and her daughter, the landlord responded by laughing and saying, "Oh, you can't afford this house" and then hung up. The complainant called back later to confirm that she was not mistaking the discrimination and told the landlord that she, her husband, and two children would be moving in. The landlord then asked if her husband knew how to take care of the lawn. When she said yes, the landlord said she could see the house but her husband must be present. DHR staff did not investigate this case and instead determined it was defective. DHR officials informed us that their staff should not have returned this complaint as defective, and the investigator should have gathered more information on whatever basis was missing from the narrative during the investigation.

Despite DHR's mission to eliminate discrimination, remedy injustice, and promote equal opportunity, access, and dignity in housing, officials do not ensure that submitted complaints are diligently reviewed and that parties are allowed to correct their complaints. Housing discrimination complaints that are inappropriately deemed defective are not being adequately addressed. Without clear rationale for why the complaint is defective and instruction from DHR on how to remedy it, complainants may decide not to move forward. As a result, their alleged discrimination will not be investigated and may continue without the opportunity for recourse.

Lengthy Case Processing Times

DHR officials do not ensure that they meet the time frames established in the Law or by HUD for processing complaints. In fact, DHR officials took extensive amounts of time to notify complainants if their complaint was deemed defective, to actively begin investigating and processing the cases, and to make a final determination.

According to the HUD guidelines¹ and the Law, DHR officials should complete investigation steps within the following time frames:

- If DHR officials determine that there is insufficient information in a complaint to commence an investigation, DHR must notify the complainant in writing no later than the fifth day after receipt of the complaint, informing the complainant what information they must provide in order for an investigation to commence.
- Within 30 days after receipt of any housing discrimination complaint, DHR should serve a copy on the respondent and all persons it deems to be necessary parties and then promptly investigate the complaint.
- DHR officials should determine whether DHR has jurisdiction and, if so, whether there is probable cause within 100 days of receipt of a housing discrimination complaint.

For a sample of 53 defective complaints reported in CMS from April 2019 to February 2024, on average, DHR officials sent defective complaint letters approximately 132 days after receipt of the complaint. In fact, DHR officials only sent one defective complaint letter within 5 days, as required, and, in one instance, officials did not send the letter until almost 2 years (638 days) after receipt of the complaint. Although DHR officials stated that complainants are given the opportunity to correct the “defects” of their complaints, defective complaint letters were usually not sent in a timely manner, resulting in complainants not correcting their complaints. According to DHR officials, only about 50% of complainants who receive defective complaint letters returned the corrected complaint.

According to data from CMS, as of November 7, 2023, there were 1,508 closed cases and 755 open cases (filed between April 1, 2019 and October 31, 2023). Of the 1,508 closed cases, it took DHR officials over 100 days to close 1,331 (88%) of the complaints. On average, it took approximately 179 days from the date of filing to closure.

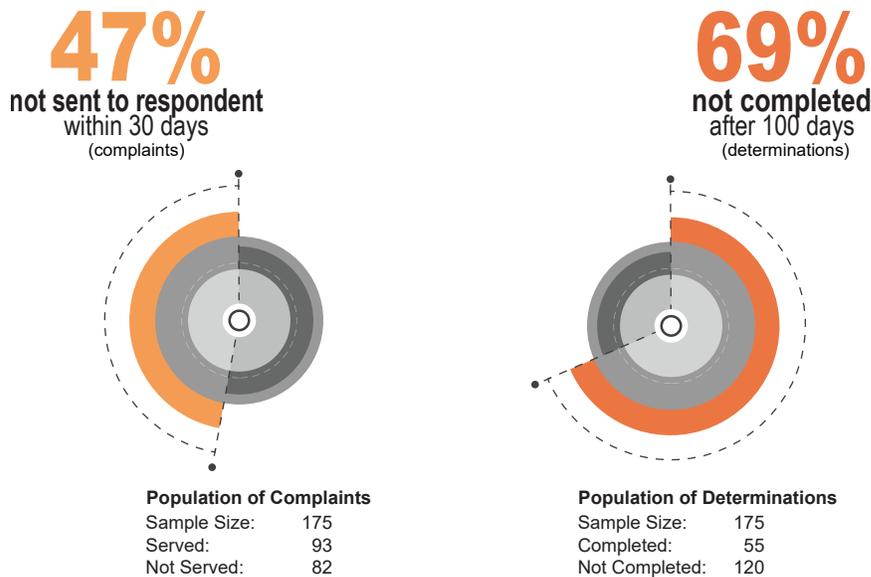
We selected a sample of 175 of the 1,508 closed cases for further review and found:

- Officials did not serve the complaint on the respondent or initiate an investigation within 30 days of receipt for 82 (47%) of the complaints (see Figure 4). It took an average of 55 days to serve complaints; however, in one instance, it took 655 days to serve a respondent—more than 1 year and 8 months beyond the 30-day requirement.

¹ DHR officials informed us that they instructed staff to follow HUD time frames, even for cases with no federal status.

- Officials did not determine whether there was probable cause within 100 days of receipt for 120 (69%) of the complaints (see Figure 4). It took an average of 295 days to determine probable cause; however, in one case, it took over 3 years (1,099 days) to complete the investigation for determining probable cause.

Figure 4 – Timeliness of DHR’s Reviews



Of the 755 open cases filed between April 1, 2019 and October 31, 2023, 578 had a status of “Investigation.” Of these 578 cases, 251 were awaiting investigator assignment—244 of these were older than 30 days and 198 were older than 100 days. On average, it took 163 days for cases to be assigned to an investigator, with the oldest complaint being 287 days old, or almost 9 months beyond the 30-day time frame within which DHR should initiate investigation and notify respondents.

Lengthy processing times negatively impact the quality and efficiency of DHR’s investigations. Due to the extensive amount of time that it takes to commence investigations, DHR staff lost contact with some complainants and witnesses, and some complainants were no longer willing to cooperate with the investigations. For example:

- DHR staff did not make initial contact with one complainant until 5 months (154 days) after the complaint was filed. The complainant cooperated with the investigation and communicated with DHR investigators on multiple occasions throughout the next 5 months. DHR did not then make any contact until over 7 months (224 days) later, at which point, DHR staff were unable to reach the complainant. About 5 months after that, DHR staff sent a letter to the complainant indicating their intent to close the case if the complainant did not contact them within 10 days. The complainant responded on the same day expressing their dissatisfaction with DHR’s delayed review:

“Can you please dismiss the complaint? I appreciate you reaching out, but the complaint was submitted almost 2 years ago. I’ve since moved out of that apartment complex. It would have helped tremendously to have this resolved while living there and directly dealing with the issue.”

- In another instance, DHR investigators received a response from a respondent but took no further action on the case until more than 1 year and 2 months (443 days) later. Further, DHR staff did not attempt to contact the complainant again until almost 2 years (712 days) after the original complaint was filed. By the time they commenced the investigation, the respondent no longer worked as a real estate agent and the management company for which she worked no longer existed. Further, the investigator was unable to locate the complainant or get in touch with certain witnesses for an interview.

We also found that lengthy gaps in complaint processing resulted in complainants stating that their well-being and quality of life was affected:

- It took DHR staff approximately 400 days to reach a determination in a case where the complainant was not provided with reasonable accommodation to be placed in an apartment free of dust and mold in relation to her disability (asthma). We spoke with the complainant, who informed us that she remained in the building after filing a complaint with DHR, during which time her physical condition worsened due to the mold, dust, and asbestos in the apartment. The complainant added that she had to get a lung biopsy and now needs an inhaler to breathe, which she attributed to her living conditions in the apartment. So, while DHR staff found that there was probable cause, the complainant had to remain in an unhealthy situation for over a year.
- In another case, DHR staff initiated an investigation a month after a complaint was filed but then went almost 9 months without contacting the complainant regarding the investigation. According to CMS, this complainant expressed disappointment with DHR’s delayed response and indicated that they experienced a diminished quality of life due to the significant delays. The complainant stated the following:

“Upon further consideration, I’ve evaluated your untimely response to a year-old complaint. The damage has been done, you did absolutely nothing to correct a discrimination complaint filed by me, a sixty-eight-year-old disabled woman who had been victimized, harassed, discriminated against...so why should I have confidence that your agency would do anything to rectify a year-old complaint? Let’s leave it at that... To be honest I’ve never seen anything like this in my life.”

The failure to complete a timely investigation leaves complainants and respondents in limbo and results in a loss of public trust.

Non-Compliance With Investigation Procedures

DHR's investigations conclude with a case determination (probable cause or no probable cause), a conciliation agreement, or a case dismissal (including Administrative Convenience). Due to the lack of available documentation, there is limited assurance that investigators always followed all necessary or recommended investigative steps before reaching a case outcome, especially in cases closed with an Administrative Convenience dismissal—where the complainant was unavailable, unwilling to participate, or unable to be located—as well as in cases closed with no probable cause.

According to HUD's Criteria for Processing, in order to issue an Administrative Convenience dismissal because the complainant cannot be located, the investigator must first take the following steps to locate the complainant:

- Attempt four phone calls, two during business hours and two during non-business hours.
- Attempt to reach the alternative contact person listed on the complaint.
- Check other sources for contact information on the complainant.
- Send a letter to the complainant advising them of DHR's intent to close the case unless contact is made within 10 days.

Also, a complaint may be administratively closed when the complainant fails to respond to reasonable requests for information that is needed in order for the agency to make a determination. Under HUD's Criteria for Processing, before closing the complaint for failure to cooperate with the investigation, the investigator must:

- Inform the complainant and their representative of their duty to cooperate with the investigation and the risk of the agency administratively closing the complaint if they fail to cooperate.
- Make repeated attempts to contact the complainant and their representatives by telephone and mail requesting the needed information. If these efforts are fruitless, the agency must send a letter to the complainant by certified mail return receipt giving the complainant at least 10 days from receipt of letter to provide the needed information to the agency.

We reviewed nine cases that were closed as Administrative Convenience citing an unwilling or unavailable complainant. In eight of the nine cases (89%), CMS records did not contain evidence that investigators followed all required steps to contact the complainant before dismissing the case.

HUD's guidelines also state that every probable cause or no probable cause determination must be based on an investigation that includes sufficient consideration of the complainant's and respondent's evidence as well as a sufficient evaluation of any conflicting evidence. DHR staff must complete certain investigation steps, including:

-
- Initiating a comprehensive investigation of issues raised in the complaint.
 - Identifying and analyzing the respondent's defenses, relevant policies and practices, and all other relevant data.
 - Interviewing the complainant, respondent, and all relevant witnesses.
 - Investigating contradictions between complainant's allegations and respondent's response.
 - Determining, on a complaint-by-complaint basis, whether on-site inspections are required.

We reviewed CMS records for 87 cases that resulted in a determination of probable or no probable cause to determine if DHR officials maintained sufficient evidence that investigators followed the appropriate investigation steps. In 61 of the 87 cases (70%), CMS records did not include evidence that all investigation steps were completed before a cause determination was issued. It is important to note that it is not always necessary to complete every step to reach a case determination, so, in certain cases, the missing steps may have been appropriate. Nevertheless, there were instances where the missing investigation steps negatively impacted the thoroughness of the investigation.

One complainant contacted DHR on multiple occasions, stating that she had evidence to provide in relation to her case. Staff informed the complainant that the investigator assigned to her case would work with her to obtain any relevant evidence. However, according to this complainant, she never had the opportunity to provide any proof or even a complete statement. We found no evidence in CMS records indicating that the investigator ever contacted the complainant or interviewed relevant witnesses. Therefore, we have no assurance that this investigation step was completed. However, DHR officials closed the case with a determination of no probable cause. This complainant contacted DHR again about a week after a no probable cause determination was served to request that her case be reopened. DHR staff drafted a letter, which was added to CMS 3 days later, explaining that under the Law, a no probable cause determination is a final order, subject exclusively to judicial review, and that judicial review is commenced by the filing of a Notice of Petition directly with the New York State Supreme Court within 60 days after the date of notification of the determination. However, this letter was not sent to the complainant until 243 days after the no probable cause determination, and 6 months after the period in which the complainant could have filed a petition. The complainant responded with the following:

“Now, I’m unheard, silenced, my evidence disregarded, without due process from the State of New York.”

If DHR staff do not complete all investigation steps, they may not receive all the information necessary to make an accurate determination, which can lead to faulty determinations and unaddressed discrimination. According to the National Fair Housing Alliance, it is common for victims of housing discrimination to feel

that nothing can or will be done about the discrimination they experience as well as to fear retaliation by their housing provider, landlord, or neighbors. Therefore, it is imperative that DHR staff conduct thorough investigations into each housing discrimination complaint. Furthermore, if DHR staff close a case with no probable cause without thoroughly investigating the case, sellers, owners, landlords, real estate brokers, and/or agents may continue to discriminate or may not be aware that their actions are discriminatory.

Inconsistent Case Outcomes

DHR's case determinations were sometimes inconsistent, especially as they related to cases in which the complainant indicated a desire to withdraw their case or refused to participate in the investigation. In certain instances, when a complainant indicated a desire to withdraw their case but did not complete and sign a formal withdrawal form, DHR closed the case for Administrative Convenience, in alignment with DHR's procedures for dismissing cases in which the complainant is no longer cooperating. However, in other instances, DHR closed cases with no probable cause determinations despite evidence showing that the complainant wanted to withdraw their case or DHR staff had lost contact with the complainant.

CMS records for a case that was closed as no probable cause indicated that DHR staff had an initial telephone call with the complainant but were unable to reach her on numerous occasions following. DHR staff subsequently sent a letter to the complainant informing her that, if she did not contact DHR within 10 days, her complaint would be dismissed. However, DHR did not dismiss the complaint as Administrative Convenience as it should have. Instead, DHR closed the case as no probable cause. This is inconsistent with DHR's procedure to dismiss cases when the investigator cannot locate the complainant.

By continuing to investigate cases when complainants indicated a desire to withdraw or were no longer participating in the investigation, DHR may have extended the amount of time it took to investigate other complaints. Inconsistency in case outcomes can also lead to confusion and conflicting information regarding what is appropriate, in turn leading to further inconsistencies.

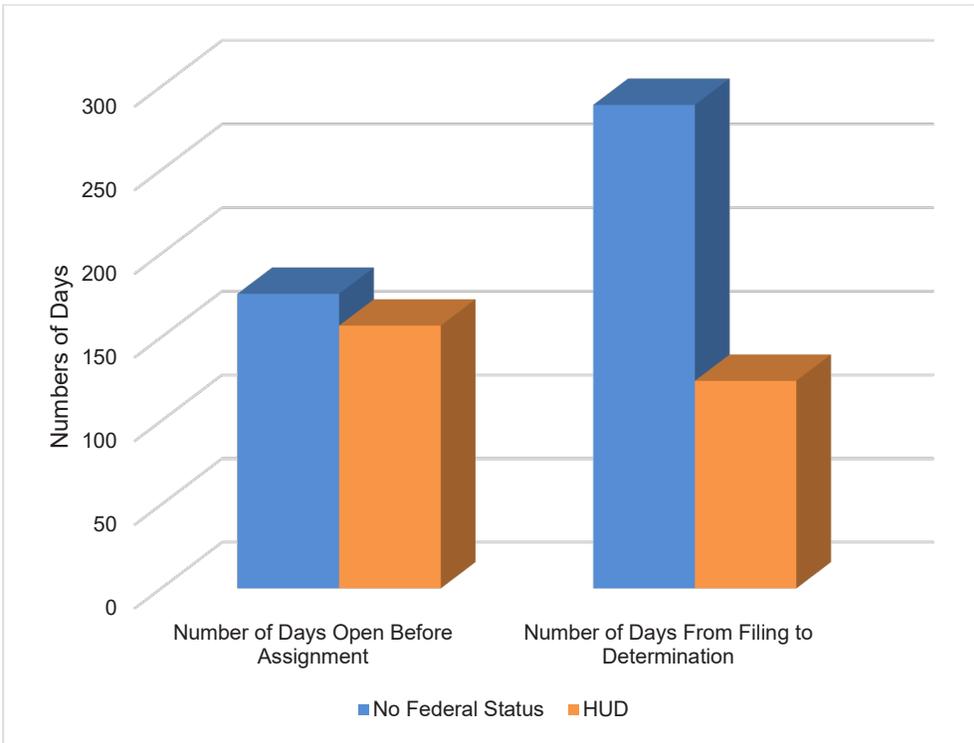
Improper Prioritization of Cases

As a participant in HUD's Fair Housing Assistance Program, DHR is reimbursed by HUD for investigating discrimination cases covered under a class protected by federal law. HUD has the discretion and authority to refuse to accept cases for reimbursement where quality and timeliness standards are not met. We found that DHR staff prioritized the processing of HUD cases over cases with no federal status.

On average, HUD cases that had yet to be assigned to an investigator were open for 157 days compared with 176 days for cases with no federal status. Additionally, DHR took an average of approximately 124 days from the filing date to reach a

determination for HUD cases and approximately 289 days for cases with no federal status—about 165 days longer (see Figure 5).

**Figure 5 – Difference in Review Time Frame
(No Federal Status Compared With HUD Cases)**



Additionally, DHR staff were more likely to document in CMS that they followed all required investigation steps for HUD cases than for cases with no federal status. For a judgmental sample of 87 cases that resulted in either a probable or no probable cause determination, we reviewed CMS records to determine if, in each case, the DHR investigator interviewed the parties, attempted conciliation with both parties, interviewed witnesses, obtained evidence to refute/affirm the respondent’s defense, and collected comparative data. All the investigation steps were documented in CMS records for 33% of HUD cases but for only 21% of cases with no federal status.

According to a DHR investigator, DHR officials instructed investigators to prioritize HUD cases over cases with no federal status because DHR receives reimbursements for processing HUD cases. We also found evidence that at least one DHR investigator contemplated closing a case with an improper determination category to receive unqualified HUD reimbursements.

Prioritizing HUD cases over cases with no federal status puts complainants whose cases do not have a federal status at a disadvantage because their cases may take longer to process, and the investigations may not be as thorough. Further, lengthy case processing times negatively impact the quality and efficiency of the

investigation as well as the complainants' well-being and quality of life. Additionally, respondents may continue to discriminate because they may never be made aware that their actions were discriminatory.

Recommendations

1. Establish adequate internal controls over the handling, processing, and investigations of all complaints—including those deemed defective—and ensure that all complaints are handled on time and appropriately, including:
 - Developing and implementing comprehensive written procedures that include a streamlined process for handling and tracking all incoming housing discrimination complaints in a timely and consistent manner.
 - Monitoring and segregating the duties of the staff responsible for logging, tracking, and completing the initial review of complaints.
 - Conducting ongoing reconciliations of DHR's various intake logs with CMS records.
 - Providing adequate training for all staff involved in the complaint intake, processing, and investigation process.
 - Actively monitoring DHR's intake and investigation procedures to ensure that complaints—including those marked as defective and as non-federal cases—are handled on time and appropriately.
2. Improve oversight of the investigation process to identify reasons for delays in case processing times and ensure case determinations are consistent and accurate.
3. Develop a mechanism to promptly assign investigators to housing discrimination complaints and ensure all complaints are investigated as required by the Law.
4. Investigate complaints in the order in which they were filed, regardless of federal status, to ensure all investigations are initiated within 30 days.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether DHR reviewed and addressed housing discrimination complaints timely and in accordance with its policies and procedures and the related laws. The audit covered the period from April 2019 through February 2024.

To accomplish our objective and assess related internal controls, we reviewed the Law and DHR's procedures related to the investigation of housing discrimination complaints, including HUD's policies for processing and investigating housing complaints. We interviewed DHR officials, reviewed case files, and spoke with complainants who were impacted by DHR's housing discrimination complaint process.

We used a non-statistical sampling approach to provide conclusions on our audit objective and to test internal controls and compliance. We selected judgmental and random samples. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective populations, even for the random samples. Our samples, which are discussed in detail in the body of our report, include:

- A sample of 306 complaints selected from DHR's various logs, as follows:
 - Housing discrimination complaints logged in DHR's mail logs from a random sample of 6 of 55 months in our audit scope (totaling 188 complaints).
 - Housing discrimination complaints stored in DHR's shared inbox from a random sample of 6 of 55 months in our audit scope (totaling 48 complaints).
 - A sample of 70 housing discrimination complaints selected from 950 complaints submitted to DHR between March 16, 2022 and October 2, 2023 via DHR's online complaint submission system, Alchemer. This is composed of:
 - ◆ A random sample of 50 complaints selected from the 950 Alchemer complaints.
 - ◆ A judgmental sample of 20 complaints from the 950 complaints. We selected the 20 oldest complaints processed during the audit scope.
- A judgmental sample of 175 closed housing discrimination complaints out of 1,508 closed housing discrimination cases filed with DHR between April 1, 2019 and October 31, 2023. For each DHR determination category type, we identified the oldest HUD cases as well as the oldest non-federal status cases and selected 10% from each subcategory. The resulting sample was as follows:
 - 87 cases that resulted in a cause determination, which included 10 cases that resulted in probable cause and 77 cases that resulted in no probable cause.

-
- 29 cases that resulted in Administrative Convenience dismissals, which included nine cases closed because the complainant was unavailable, unwilling to participate, or unable to be located.
 - 22 cases that resulted in case dismissals because DHR did not have jurisdiction, or the case was not filed in a timely manner.
 - 19 cases that resulted in case dismissals because the complainant indicated a desire to withdraw the case.
 - 13 cases that resulted in conciliation.
 - 5 cases in which DHR did not record the reason for the closure.
 - A sample of 53 defective complaints: 29 from the handwritten mail log and 24 from a population of 1,209 “Not Filed” complaints that were added to CMS between April 1, 2019 and February 23, 2024. The sample includes:
 - All 29 mailed complaints marked as defective.
 - A random sample of 13 complaints, which were not filed and had no filing date.
 - A random sample of 11 complaints, which were not filed but were recorded with a filing date.

We obtained data from CMS and Alchemer and assessed the reliability of that data by reviewing existing information, interviewing officials knowledgeable about the systems, performing electronic testing, and tracing to and from source data. We determined that the data from these sources was sufficiently reliable for the purposes of this report. Certain other data in our report was used to provide background information. Data that we used for this purpose was obtained from the best available sources, which were identified in the report. Generally accepted government auditing standards do not require us to complete a data reliability assessment for data used for this purpose.

As part of our audit procedures, using DHR’s data on alleged complaints filings, we used Tableau to create a map (see Exhibit) to enhance understanding of our report.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties could be considered management functions for the purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of DHR's oversight and administration of the investigation of housing discrimination complaints.

Reporting Requirements

We provided a draft copy of this report to DHR officials for their review and formal comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of it. In their response, DHR officials agreed with the report's recommendations and indicated actions they have taken or will take to implement them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Division of Human Rights shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments



**Division of
Human Rights**

KATHY HOCHUL
Governor
DENISE M. MIRANDA, ESQ.
Acting Commissioner

August 23, 2024

Andrea C. Miller
Executive Deputy Comptroller
Office of the State Comptroller
Division of State Government Accountability
110 State St – 11th Floor
Albany, NY 12236-0001

RE: Draft Report 2023-S-26

Dear Andrea C. Miller:

Thank you for the opportunity to respond to the State Comptroller’s draft report dated July 2024 on the Division of Human Rights’ investigation of housing discrimination complaints. The Division of Human Rights (DHR) is dedicated to eliminating discrimination, remedying injustice, and promoting equal opportunity, access, and dignity.

Our Housing Investigations Unit (HIU) investigates complaints of housing and housing-related credit discrimination based on a variety of protected classes as defined by state and federal law. We appreciate your examiners’ thorough work to identify opportunities for us to strengthen the work of HIU as it plays a critical role in addressing the needs of New Yorkers facing discrimination in housing.

The more than four-year period for this audit covered April 2019 through February 2024, which included the periods prior to, during, and after the COVID-19 pandemic. The Division experienced changes in the rates of complaints filed, with a lull during the pandemic, and a steady increase since then. In the most recent fiscal year, the Division closed twice the number of cases than were closed in the prior fiscal year; and in the five prior fiscal years, the Division secured more than \$1.7 million in monetary damages for more than 400 HIU complainants. We are committed to continually strengthening our agency’s operations to deliver on our promise of protecting New Yorkers from discrimination.

Governor Hochul appointed me as the Acting Commissioner of DHR in March 2024 and tasked me with developing and executing a comprehensive plan to elevate the mission of this agency and ensure efficiency and responsiveness was at the forefront of our work. I am pleased to say that we have made significant progress in just a few short months, including but not limited to the following efforts to improve operations within HIU and across the entire agency:

- Major changes to the Division’s executive leadership, including hiring for roles that are critical to supporting the agency’s efficiency across the board. These roles include: Executive Deputy Commissioner; Chief of Staff; General Counsel; Deputy Commissioner for Administration; Assistant Director for HIU, Director of Internal Audit; Director of Financial Administration; Training Manager; and Deputy Commissioner for Legislative and External Affairs. We will welcome a new Deputy Commissioner for Investigations on August 29, 2024, and are in the process of hiring a Deputy

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Commissioner for Experience Management and Strategic Initiatives. Collectively, these new executives will bring the vision and dynamic leadership skills necessary to guide the agency through ambitious efforts to reorganize and modernize the Division’s policies and processes while ensuring that HIU and all units within the agency can continue to adjudicate complaints fairly, reliably, and effectively, delivering critical relief to New Yorkers who have suffered discrimination.

- In addition to the executive staff identified above, the Division has, as of the date of this letter, onboarded more than two dozen crucial support staff – predominantly investigators – to address complaints received in the HIU and across the Division.
- The Division has created an Internal Audit unit to strengthen controls over internal operations; a Data Analytics and Performance Management unit to design solutions to help managers provide enhanced oversight of the investigation and adjudication processes; and a Training Unit to provide ongoing and comprehensive training to all employees, ensuring a consistent, competent approach to investigating and adjudicating complaints.
- We have dedicated significant time and effort to preparing the agency for replacing the Division’s nearly obsolete Case Management System. This crucial modernization project will enable us to manage our complaints more efficiently and effectively from start to finish, improving the experience for complainants, respondents, and investigators alike.
- Active efforts are underway to significantly streamline our complaint intake process. In particular, we are transitioning to the Human Services Call Center operated by the Office of Children and Family Services as the primary, agent-facilitated avenue for filing complaints; we are also working closely with the Office of Information Technology Services to enhance our online complaint form. These initiatives will substantially increase the quality and completeness of complaints received, which, in turn, will facilitate timelier investigation and adjudication of discrimination complaints.

We are excited about these important initiatives and are confident that they will result in significant improvements in all aspects of the agency’s operations. And these current efforts are only the beginning: our team will continue working tirelessly to ensure the Division of Human Rights provides the fair, timely, and reliable support that New Yorkers deserve.

The following is a summary of the major actions currently underway within the Division as they relate specifically to the recommendations in your office’s audit report:

Recommendation 1: Establish adequate internal controls over the handling, processing, and investigations of all complaints—including those deemed defective—and ensure that all complaints are handled on time and appropriately, including:

- Developing and implementing comprehensive written procedures that include a streamlined process for handling and tracking all incoming housing discrimination complaints in a timely and consistent manner.
- Monitoring and segmenting the duties of the staff responsible for logging, tracking, and completing the initial review of complaints.
- Conducting ongoing reconciliations of DHR’s various intake logs with CMS records.
- Providing adequate training for all staff involved in the complaint intake, processing, and investigation process.
- Actively monitoring DHR’s intake and investigation procedures to ensure that complaints—including those marked as defective and as non-federal cases—are handled on time and appropriately.

Division Response: The Division is engaged in extensive efforts to streamline and significantly improve oversight of the complaint process from intake through adjudication. In particular:

- *As noted above, the Division is actively working to shift the agency's primary intake process toward an agent-facilitated intake method operated through the Human Services Call Center (HSCC), which is overseen by the Office of Children and Family Services and utilized by numerous state agencies to increase efficiency and consistency in service and information delivery. The Division is also working with the Office of Information Technology Services to enhance the existing online complaint form as an effective secondary complaint intake method. Further, the Division is exploring ways to automatically ingest information from the HSCC and the enhanced online form directly into our Case Management System. Collectively, these changes will increase the quality and completeness of claims received and save the Division significant processing time and staff bandwidth. This will ultimately improve the experience of interacting with the Division for all involved.*
- *Recognizing the crucial importance of creating stronger internal controls and effective risk mitigation measures, the Division has hired a Director of Internal Audit, who is in turn hiring a team of additional internal audit staff. Within its first full year, the Internal Audit Team aims to complete three internal audits and will provide ongoing feedback to the Division's executive management as well as the new Data and Performance Management Team; this will allow the Division to implement continuous improvement measures throughout the entire agency, with a special focus on intake, investigations, and other core mission work.*
- *The Division is actively developing comprehensive policies and procedures to ensure employees understand and consistently execute all required case processing steps. This includes evaluating existing policies for clarity and relevance and identifying and developing new policies and procedures as needed. These policies and procedures will address appropriate separation of duties as well as complaint tracking, investigation monitoring, and intake reconciliations.*
 - *While these comprehensive policies and practices are in development, it should be noted that following my arrival at the Division, HIU swiftly transitioned away from its prior practice of maintaining multiple complaint logs in favor of more effective protocols. HIU staff now record all complaints received into a single log and strive to enter complaint information into CMS within one day of receiving the complaint. Another employee then reconciles the information between the email box, the log, and CMS to ensure the Division has a complete inventory of all complaints received. An attorney from the Office of the General Counsel is required to confirm all non-jurisdiction determinations before HIU sends any notification to complainants to ensure judgments are consistent and appropriate. As the Division implements the call center complaint intake solution and enhanced online complaint intake form, HIU staff will be better able to accelerate the time frame of complaint entry to completion.*
- *The Division is actively working to procure a new Case Management System to replace the current system and allow the agency to process and manage complaints more efficiently and effectively.*
- *The Division is developing a comprehensive training curriculum for all new and existing staff involved in the complaint process from intake through adjudication. The Division has hired a new Training Director to facilitate this effort, who is now developing a 52-week training*

program for all new investigators that will include desk trainings, investigator shadowing, exposure to a wide variety of subject matters encountered in complaints, client interaction and communication, and ongoing monitoring. In advance of that, the Training Director will create a series of core investigations trainings that will be required for all staff performing investigations for the agency. Additionally, the Training Director has instituted a process for onboarding every new staff member with a comprehensive overview of the functions of each business unit to ensure that new employees have awareness of the overall processes of the Division and how their role interacts with and impacts the roles of other staff and units. The Division also holds periodic all-staff meetings to communicate vital information, which will include ongoing education for existing staff about the different units within the Division.

- *The Division is working to procure a multi-year consultant contract to ensure that the new technologies and processes being implemented at the agency match the Division's statutory and contractual requirements, and that Division staff are properly trained and supported to manage these upgrades.*

Recommendation 2: Improve oversight of the investigation process to identify reasons for delays in case processing times and ensure case determinations are consistent and accurate.

Division Response: As described above, the Division has made key personnel appointments to provide enhanced oversight to investigations staff statewide and in the HIU. This includes appointing a new Deputy Commissioner of Investigations and a new Assistant Director of Housing to assist in quality oversight and supervision of HIU staff. These roles ensure Division staff appropriately investigate filed claims in compliance with investigatory procedures and Federal contract obligations. Further, the Office of the General Counsel is actively evaluating the consistency and accuracy of claim determinations and jurisdictional matters. Over the next several months, the Office will work to standardize evaluation tools to ensure that investigators evaluate cases with a common lens.

Additionally, the policies and procedures that the Division is developing will include guidance to provide appropriate, regular oversight of the investigation process. In addition, the Division has created a Data Analytics and Performance Management unit to build metrics and dashboards to enhance case monitoring. This will facilitate the Division's ability to readily identify issues that require escalation and attention for resolution, including delays in processing time; and it will facilitate consistency and accuracy in case determinations.

Recommendation 3: Develop a mechanism to promptly assign investigators to housing discrimination complaints and ensure all complaints are investigated as required by the Law.

- *Division Response: The Division takes its responsibility to investigate complaints of discrimination extremely seriously, and our staff is dedicated to enforcing the law fairly to protect New Yorkers from unlawful discrimination. To bolster this work within HIU, the Division is currently developing new policies and procedures to ensure housing discrimination complaints are assigned and investigated in a timely manner. The Division is also working closely with human resources personnel to develop comprehensive strategies to hire and train investigatory staff, and we are working with consultants to improve processes and modernize technologies to increase efficiency in case processing and*

investigations. Additionally, as we streamline intake by introducing the HSCC's agent-facilitated process, we anticipate that claims will be more complete and easier to assign to the appropriate unit from the time of their submission, which will reduce defective filings and help ensure that claims are promptly assigned and investigated.

Recommendation 4: Investigate complaints in the order in which they were filed, regardless of federal status, to ensure all investigations are initiated within 30 days.

Division Response: The Division has directed HIU staff to investigate complaints in the order in which they were filed and reminded staff of their obligation to initiate investigations within 30 days. Staff will be reminded of such responsibilities on a regular and ongoing basis, including through onboarding and training materials and periodic internal guidance.

Thank you again for your examiners' insights and professionalism. We are dedicated to continuing to bring these changes to life in the Division of Human Rights so that we may better serve the needs of New Yorkers and protect those who experience discrimination. As we approach our agency's 80th anniversary, we are eager to build on the legacy of the Division and take our place as the leading anti-discrimination agency in the country. Through the substantive changes already underway and described in this report, as well as additional improvements still to come, we are confident that we will achieve this goal while maintaining accountability and quality. We look forward to continuing to serve the people of this great state.

Please do not hesitate to contact us should you have any questions or concerns or if you need additional information.

Respectfully,



Denise M. Miranda, Esq.
Acting Commissioner

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